

Application No. 09/591,577  
Reply to Office Action of August 3, 2006

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Remarks

Claims 133-151 are currently pending in the Application.

Claims 86-122 have been cancelled. A Request for Continued Examination ("RCE") under 37 C.F.R. §1.114 is being filed herewith. Support for new claims 133-151 may be found, for example, in the specification at paragraphs 116-123 and in Figs. 12A, 12B, 13 and 14. Accordingly, no new matter has been added to the application by the foregoing claims.

References made herein to the "Specification" refer to the Substitute Specification submitted with the Declaration of Douglas J. Ryder on July 25, 2003. Where appropriate, citations are made with respect to specific paragraph numbers of the Substitute Specification.

Claim Rejection-§ 112, First Paragraph

The Examiner has rejected claims 86-121 under 35 U.S.C. §112, first paragraph, for failing to comply with the written description requirement. Claims 86-121 have been cancelled. Accordingly, the Examiner's rejection is moot.

Claim Rejection-§ 112, Second Paragraph

The Examiner has rejected claims 86-132 under 35 U.S.C. §112, second paragraph, as being indefinite. Although Applicant respectfully disagrees with the Examiner, claims 86-132 have been cancelled. Accordingly, the Examiner's rejection is moot.

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**Claim Rejection-§ 102(e)**

The Examiner has rejected claims 86-132 under 35 U.S.C. § 102(e) as being anticipated by Hendricks et al. (US 6,463,585).

Hendricks teaches a system for allowing targeted advertising to be directed to television terminals connected to an operations center or cable headend via a switched digital video network. Supplemental feeder channels are used to carry a plurality of advertisements that can be inserted into a viewing channel during an advertisement opportunity. Viewers are arranged according to a group assignment plan based upon factors such as dominant influence, ZIP code, and household income. A switching plan is used to determine whether to substitute the existing advertisement with an advertisement from a feeder channel, and if so, which advertisement should be substituted. Hendricks describes that the components responsible for selecting advertisements are based upon an analysis of only the viewer-based data. See Hendricks, column 69, line 61-column 76, line 11.

For a rejection under § 102(e) to be proper, a reference must disclose, either explicitly or implicitly, each and every element of the claimed invention. Applicants respectfully submit that Hendricks does not teach each and every element recited in new independent claim 133.

Independent claim 133 recites:

A method of identifying consumers likely to be interested in an advertisement, the method comprising:

- (a) accessing a plurality of consumer transaction records corresponding to a plurality of consumers and demographic information records corresponding to at least some of the plurality of consumers;
- (b) retrieving heuristic rules, wherein said heuristic rules have been pre-defined prior to accessing said plurality of consumer transaction records;

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- (c) retrieving at least one target market characteristic that has been selected at the discretion of an advertiser;
- (d) applying said pre-defined heuristic rules to said plurality of consumer transaction records and demographic information records to determine inferred market characteristics of the consumers; and
- (e) determining applicability of an advertisement to at least one of the consumers by correlating the inferred market characteristics obtained by the application of the pre-defined heuristic rules with the target market characteristics selected by the advertiser.

Hendricks does not disclose pre-defined heuristic rules as recited in claim 133. Hendricks, in fact, does not describe heuristic rules at all. Instead Hendricks describes using only viewer-based data to select advertisements. Although Hendricks does teach an unspecified "correlation algorithm," there is nothing to suggest that this algorithm pertains to heuristic rules. Additionally, the pre-defined heuristic rules recited in claim 133 are pre-defined prior to accessing the consumer transaction records. Hendricks does not disclose this feature.

Hendricks also does not disclose the use of a "target market characteristic that has been selected at the discretion of an advertiser," as recited in claim 133. An example of how the selection of market characteristics is accomplished in Hendricks can be found at column 4, lines 12-15: "A video targeting routine makes use of a viewer's demographic information and viewing habits to determine those advertisements that may be most effective when displayed to that particular viewer." Thus, Hendricks' market characteristics are determined by a "video targeting routine," such that Hendricks' system selects the market characteristics. However, in claim 133 the market characteristics are selected by an advertiser at that advertiser's discretion. At no point in Hendricks is it suggested that an advertiser has the ability to select a market characteristic. Accordingly, Hendricks does not disclose all features of independent claim 133.

Similarly, new independent claim 140 recites "selecting at least one of the pre-defined heuristic rules based on said at least one target market characteristic," and the use

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of "at least one target market characteristic that has been selected at the discretion of an advertiser." New independent claim 146 recites "using said pre-defined heuristic rules to determine at least one target market characteristic." For the same reasons discussed above with respect to independent claim 133, Hendricks does not disclose all of the features of independent claim 140 and 146.

Dependent claims 134 -139, 141 -145 and 147-151 are allowable at least by their dependency on independent claims 133, 140 and 146, respectively.

### *Conclusion*

In view of the foregoing amendments and remarks, Applicants respectfully submit that the Examiner's rejections have been overcome, and that the application, including claims 133-151, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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